

IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RYAN KERWIN : CASE NO. 05-93 ERIE
 '06 FEB 23 11:02 :
 VS. CLERK : MAGISTRATE JUDGE SUSAN BAXTER
 U.S. DISTRICT COURT :
 LT. WILLIAM MCCONNELL : DISTRICT JUDGE SEAN MC LAUGHLIN

PLAINTIFF'S SECOND MOTION FOR SANCTIONS

Plaintiff moves this court for an order pursuant to Rule 37 (b)(2) of the Federal Rules of Civil Procedure imposing sanctions on the defendant for failing to obey this court's order directing him to provide plaintiff with his discovery requests before February 22, 2006. (Doc. #44)

Plaintiff filed a motion to compel pursuant to Rule 37(a) of the Federal Rules of Civil Procedure on January 22, 2006 for the defendant's failure to respond to his interrogatories and requests for production of documents. (Doc. #41) On January 25, 2006 this court then ordered the defendant to respond to this motion to compel by February 10, 2006. (Doc. #43)

The defendant failed to obey the court's order and respond to plaintiff's motion to compel. As a result the court granted the motion on February 14, 2006 and ordered the defendant to provide plaintiff with his discovery requests before February 22, 2006. (Doc. #44) It is now February 21, 2006 and the defendant has again disobeyed the court's order by failing to provide plaintiff with his discovery requests.

This is just one more instance of deliberate noncompliance in a long line of dilatory tactics. The defendant missed the first responsive pleading deadline in this case by 2 days, had 2 extensions of time in which to file a responsive pleading (Doc. #'s 15 and 19), missed the third responsive pleading deadline resulting in an entry of default (Doc. #24), failed to respond to

3 motion for summary judgement (court dismissed motions as premature because defendant had not yet filed an answer), failed to provide plaintiff with responses to his interrogatories and his requests for production of documents, failed to obey the court's order directing him to respond to plaintiff's motion to compel and has now failed to obey the court's order directing him to provide plaintiff with his discovery requests.

Plaintiff also moves for an order pursuant to Rule 37(b)(2) requiring the defendant to pay the sum of \$25.00 (in addition to the expenses requested in any previous motion) as reasonable expenses in obtaining this order on the grounds that the defendant's refusal to comply with the court's order had no substantial justification.

Respectfully submitted,

2/21/06

Date

Ryan Kerwin

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